IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 6921of 2007

DATE OF DECISION: 10.05.2007

Daljit Singh ....Petitioner.

Versus

State of Punjab and others ...Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE L.N. MITTAL

PRESENT: Mr. K.G. Chaudhary, Advocate
for the petitioner.

J.S. Khehar, J. (oral)

The petitioner, a constable in the employment of the respondents, allegedly absented himself from duty with effect from 16.12.1996, and thereafter, reported back on duty on 27.7.1997. His period of absence from duty was calculated as 7 months 12 days and 35 minutes. In view of the opinion of the competent authority, that an act of absence from duty, without due authorisation, was a highly indisciplined act at the hands of a person engaged in a disciplined force, a regular departmental enquiry was ordered against the petitioner on 14.7.1997. The enquiry report submitted, after the culmination of the departmental enquiry, recorded, that the charge of wilful absence from duty for the period, referred to above, stood proved.

The punishing authority having considered the enquiry report, referred to in the foregoing paragraph, served a show cause notice

on the petitioner dated 13.7.1998, proposing to inflict upon him the punishment of dismissal from service. The petitioner did not submit any response thereto. Thereafter, on three different occasions, the petitioner was required to appear before the punishing authority for a personal hearing. Although the petitioner was served with the notices issued to him for personal hearing, the petitioner did not appear before the punishing authority to tender any explanation. It is, in the aforesaid view of the matter, that the Senior Superintendent of Police, Batala, dismissed the petitioner from service by an order dated 19.3.1999, on account of his absence for a period of 7 months 12 days and 35 minutes i.e. with effect from 16.12.1996 to 27.7.1997. The statutory remedies availed of by the petitioner did not find favour with the concerned authorities, whereupon orders dated 7.11.1999 (Annexure P2), 28.8.2000 (Annexure P3) and 17.3.2006 (Annexure P4) were passed, upholding the punishment inflicted upon the petitioner on account of his alleged absence from duty.

The solitary contention of the learned counsel for the petitioner, in assailing the impugned orders dated 19.3.1999, 8.11.1999, 28.8.2000 and 17.3.2006, is on the basis of the fact, that the concerned authorities did not record a categoric finding in the impugned orders to the effect that the acts of indiscipline proved against the petitioner amounted to an act of gravest misconduct, calling for the infliction of the punishment of dismissal from service. It is not possible for us to accept the instant contention of the learned counsel for the petitioner. It is not a matter of dispute that the petitioner was a member of disciplined force. It

is also not a matter of dispute that the petitioner absented from duty, without due cause, for a period of 7 months 12 days and 35 minutes. It has now been repeatedly held by the Apex Court that unauthorised absence from duty by a member of the disciplined force constitutes an act of gravest misconduct within the meaning of Rule 16.2 of the Punjab Police Rules. In the aforesaid view of the matter, we are satisfied, that on the charges having been proved against the petitioner, the authorities were fully justified in inflicting upon him the punishment of dismissal from service.

Dismissed.

(J.S. Khehar)
Judge

(L.N. Mittal)
Judge

May 10, 2007.
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